

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION**

**BRANDON GARRETT**

**PLAINTIFF**

**V.**

**NO. 1:16-CV-197-DMB-DAS**

**CITY OF TUPELO, MISSISSIPPI**

**DEFENDANT**

**ORDER**

On November 8, 2017, the City of Tupelo filed a “Motion in Limine (Daubert)” seeking to exclude under Federal Rules of Evidence 702, 703, and 704, certain opinions contained in the medical records of Brandon Garrett. Doc. #46. Garrett has responded in opposition to the motion, Doc. #50, and the City has replied, Doc. #55.

After considering the filings and relevant arguments, the Court has concluded that additional briefing is needed on two issues. First, whether the rules governing admissibility of expert opinions apply to opinions contained in business records, such as medical records, otherwise admissible under Federal Rule of Evidence 803(6). *See Aumand v. Dartmouth Hitchcock Med. Ctr.*, 611 F.Supp.2d 78, 85–86 (D.N.H. 2009) (discussing conflict in authority on interplay between Rules 702 and 803(6)). Second, whether in light of the arguments raised in the *Daubert* motion, the challenged opinions in Garrett’s medical records lack trustworthiness within the meaning of Rule 803(6)(E). *Id.* at 86 (“[T]o exclude the opinion, the adverse party bears the burden to show that the source of information or the method or circumstances of preparation lack trustworthiness, as provided by Rule 803(6) itself.”) (quotation marks omitted).

The City is **DIRECTED** to file a supplemental brief addressing these issues on or before June 1, 2018. Garrett is **DIRECTED** to file a response no later than seven days after the City files its supplemental brief.

**SO ORDERED**, this 25th day of May, 2018.

**/s/Debra M. Brown**  
**UNITED STATES DISTRICT JUDGE**